

Edward Blum  
January 10, 2018

1

1 CAUSE NO. D-1-GN-17-002930

2 STUDENTS FOR FAIR ) IN THE DISTRICT COURT OF  
ADMISSIONS INC. )

3 )

4 Plaintiff )

5 VS. )

6 UNIVERSITY OF TEXAS AT )  
AUSTIN; WILLIAM MCRAVEN, )  
in his official capacity )  
7 as Chancellor of the )  
University of Texas )  
8 System; GREGORY L. FENVES, ) TRAVIS COUNTY, TEXAS  
in his official capacity )  
9 as the President o the )  
University of Texas at )  
10 Austin; and ERNEST )  
ALISEDA, DAVID J. BECK, )  
11 KEVIN P. ELTIFE, PAU L. )  
FOSTER, R. STEVEN HICKS )  
12 JEFFREY D. HILDEBRAND, )  
JANIECE LONGORIA, SARA )  
13 MARTINEZ TUCKER, and JAMES )  
CONRAD WEVER, in their )  
14 official capacities as )  
Members o the Board of )  
15 Regents of the University )  
of Texas Systems,, ) 53RD JUDICIAL DISTRICT

16 )

17 Defendants

17

18

19

20

21

22

23

24

25

-----

ORAL/VIDEOTAPED DEPOSITION OF

EDWARD BLUM

JANUARY 10, 2018

-----

Edward Blum  
January 10, 2018

2

1 ORAL/VIDEOTAPED DEPOSITION OF EDWARD BLUM,  
2 produced as a witness at the instance of DEFENDANTS, and  
3 duly sworn, was taken in the above-styled and numbered  
4 cause on January 10, 2018, from 9:06 a.m. to 2:48 p.m.,  
5 before Michelle Rodriguez, CSR in and for the State of  
6 Texas, recorded by machine shorthand, at the offices of  
7 1701 Brun Street, Suite 200, Houston, Texas 77019,  
8 pursuant to the Texas Rules of Civil Procedure and the  
9 provisions stated on the record or attached hereto; that  
10 the deposition shall be read and signed before any  
11 notary public

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25 JOB NO. 1-HOU-258482

Edward Blum  
January 10, 2018

3

A P P E A R A N C E S

FOR PLAINTIFF:

Mr. Patrick Strawbridge  
CONSOVOY MCCARTHY PARK PLLC  
3033 Wilson Boulevard, Suite 700  
Arlington, Virginia 22201  
(701) 243-9423  
Patrick@consovoymccarthy.com

FOR DEFENDANTS:

Mr. John J. McKetta, III  
GRAVES DOUGHERTY, HEARON & MOODY, P.C.  
401 Congress Avenue, Suite 2200  
Austin, Texas 79701  
(512) 480-5616  
Mmcketta@gdhm.com

VIDEOGRAPHER:

Nigel Clarke

ALSO PRESENT:

Patricia Ohlendorf



Edward Blum  
January 10, 2018

5

1	EXHIBIT 16	127
2	Reuters Article	
3	EXHIBIT 17	129
4	Ab Fisher Article	
5	EXHIBIT 18	131
6	Matt Watkins Article	
7	EXHIBIT 19	134
8	Conservative Impact Article	
9	EXHIBIT 20	n/a
10	National Review Article	
11	EXHIBIT 21	136
12	UT Not Fair Article	
13	EXHIBIT 22	144
14	UT Not Fair Article	
15	EXHIBIT 23	146
16	Twitter Account document	
17	EXHIBIT 24	147
18	Website printout	
19	EXHIBIT 25	154
20	POFR website printout	
21	EXHIBIT 26	159
22	POFR website in the "Our Cases" section printout	
23		
24		
25		

Edward Blum  
January 10, 2018

6

1 THE VIDEOGRAPHER: All right. Today is  
2 Wednesday, January 10, 2018. We're on the record at  
3 9:06 a.m.

4 MR. MCKETTA: Very good. Before we -- yes,  
5 of course.

6 EDWARD BLUM,  
7 having been first duly sworn, testified as follows:

8 EXAMINATION

9 BY MR. MCKETTA:

10 MR. MCKETTA: Before we start, did you want  
11 to comment at all about your process?

12 MR. STRAWBRIDGE: Yes, I just want to note  
13 for the record that SFFA has asserted claims of  
14 associational and First Amendment privilege in this  
15 case. The parties have worked and discussed ways in  
16 which to limit some of the discovery requests, and SFFA  
17 has been willing to provide certain information in an  
18 attempt to kind of reach an agreement.

19 That said, by providing the information  
20 SFFA is providing, it is not waiving its right to assert  
21 the associational privilege going forward and during  
22 this deposition, and the parties have agreed that if  
23 necessary we'll leave the record open and pursue relief  
24 with the court for further -- as necessary with respect  
25 to that issue.

Edward Blum  
January 10, 2018

7

1 MR. MCKETTA: Yes, thank you for you  
2 professionalism in those prior arrangements.

3 Q. (BY MR. MCKETTA) Mr. Blum, there were in a  
4 deposition notice 20 topics that were designated for  
5 SFFA to testify about today.

6 Are you the designated person to testify on  
7 each of those 20 topics subject to your objections, or  
8 are there some topics for which you are not the  
9 designated representative?

10 A. I'm the designated individual to address all  
11 the topics.

12 Q. Okay. And in advance of the deposition, am --  
13 am I right that you have taken the time to familiarize  
14 yourself with what those 20 topics ask about so that you  
15 could be prepared to be responsive today subject to  
16 Mr. Strawbridge's objections?

17 A. Yes.

18 Q. Thank you. There is a self-description that I  
19 once read about Yenta the matchmaker. Do you remember  
20 that?

21 A. I do.

22 Q. Could you describe what you meant when you  
23 described yourself as kind of a Yenta the matchmaker.

24 MR. STRAWBRIDGE: Object to the form of the  
25 question. You may answer.

Edward Blum  
January 10, 2018

8

1           A. For those who are familiar with the old  
2 Broadway play, Fiddler on the Roof, Yenta was a  
3 character in a small Russian village whose job it was to  
4 match prospective brides and grooms, and my role as  
5 Yenta the matchmaker is to match -- in the capacity that  
6 that story was written -- individuals who feel that they  
7 have been unfairly and unconstitutionally discriminated  
8 against because of their race and match them with  
9 lawyers willing to represent them.

10           Q. And that's what you meant by the phrase that  
11 you self-described on one occasion -- maybe on several  
12 occasions as Yenta the matchmaker?

13                       MR. STRAWBRIDGE: Object to the form of the  
14 question.

15           A. Yes.

16           Q. (BY MR. MCKETTA) What's the earliest  
17 litigation you recall serving any role of identifying an  
18 issue, identifying a plaintiff for whom that issue was  
19 an appropriate one to litigate, pairing that litigant  
20 with lawyers, and then assisting in whatever form  
21 appropriate with their lawsuit? What was the first  
22 occasion?

23           A. That took place in early 1993. The -- the case  
24 that was eventually filed was styled Vera vs. Richards.  
25 That was filed in 19 -- I think late '93 or early '94.



Edward Blum  
January 10, 2018

9

1 Q. When Governor Anne Richards was still governor?

2 A. Correct.

3 Q. All right. And what was the subject matter of  
4 that first lawsuit in which you performed that role?

5 A. That was a challenge to the constitutionality  
6 of the 1992 Texas redistricting -- congressional  
7 redistricting plan.

8 Q. Then from that time forward there have been a  
9 number of additional occasions where you've identified  
10 an issue of public import, identified one or more  
11 persons as potential plaintiffs to litigate that issue,  
12 paired them with lawyers, and assisted as appropriate  
13 for that lawsuit?

14 MR. STRAWBRIDGE: Object to the form of the  
15 question.

16 A. Yes.

17 Q. (BY MR. MCKETTA) Could you estimate how many  
18 additional lawsuits?

19 MR. STRAWBRIDGE: You asked about --

20 MR. MCKETTA: A number -- a number is all  
21 I'm asking.

22 MR. STRAWBRIDGE: When you say -- just to  
23 clarify, are you asking about lawsuits that were filed?

24 MR. MCKETTA: Yes.

25 Q. (BY MR. MCKETTA) If there were additional ones

Edward Blum  
January 10, 2018

10

1 that you considered filing but did not file, that's not  
2 what I'm now asking you about.

3 MR. MCKETTA: Thank you. Thank you,  
4 Patrick.

5 A. Mr. McKetta, it's somewhere between 25 and 30.  
6 I've been asked that question by others, and once I --  
7 about three years ago I quantified it, and now it's --  
8 but it's over two dozen I would say.

9 Q. Okay. Now, one of the plaintiffs in a lawsuit  
10 that you assisted in spotting an issue, identifying  
11 plaintiff, match him with lawyers, was Edward Chen.

12 A. Yes.

13 Q. Another was Abigail Fisher.

14 A. Yes.

15 Q. Right. Did the Chen lawsuit involve political  
16 processes and the Fisher lawsuit involve college  
17 admissions?

18 MR. STRAWBRIDGE: Object to the form of the  
19 question.

20 A. Yes.

21 Q. (BY MR. MCKETTA) Okay. Now, you've been asked  
22 on many occasions to give interviews to allow the public  
23 to know both about the important public issues being  
24 litigated and about your involvement from time to time.

25 A. Yes.

Edward Blum  
January 10, 2018

11

1 Q. And when interviewed on those occasions when  
2 you talk about your involvement, am I right that  
3 sometimes your involvement is through an entity rather  
4 than yourself personally?

5 A. Yes.

6 Q. For example, even though colloquially in an  
7 interview you might talk about your involvement, on some  
8 occasions is the involvement of the project on Fair  
9 Representation Inc.?

10 A. Correct.

11 Q. And on some occasions the involvement of  
12 Students For Fair Admissions Inc.?

13 A. Correct.

14 Q. Any other entities that you have used as you've  
15 had that kind of involvement?

16 MR. STRAWBRIDGE: And, again, just to  
17 clarify, the question is related to litigation that's  
18 been filed?

19 MR. MCKETTA: That's correct. Thank you,  
20 Patrick.

21 A. In the early days of my legal endeavors, there  
22 were cases that I was involved in that didn't include  
23 either of those two organizations --

24 Q. Right.

25 A. -- because they didn't exist at that time.

Edward Blum  
January 10, 2018

13

1 district.

2 A. Yes.

3 Q. Who won that race?

4 A. The incumbent.

5 Q. Was that Craig Washington?

6 A. Correct.

7 Q. Were there any other occasions where you've run  
8 for national office?

9 A. That I've run?

10 Q. You, personally.

11 A. Oh, no.

12 Q. Okay. For state office?

13 A. No.

14 Q. For municipal or local regional office?

15 A. No.

16 Q. Okay. Could you help me identify the  
17 approximate time of where you lived when because I've  
18 seen Houston, Virginia, Florida, and I don't really know  
19 any of those details, but just the approximate years and  
20 places.

21 A. I -- I own and have owned in the past multiple  
22 residences --

23 Q. Yes.

24 A. -- that were used seasonally.

25 Q. Yes.

Edward Blum  
January 10, 2018

14

1       A. So I lived in Houston beginning in 1961 off and  
2 on through college and Austin and a short year in the  
3 northeast. I lived in Houston through the year 2000 at  
4 which time we moved to Virginia. We lived in Virginia  
5 for about six years and purchased during that period of  
6 time a home in Camden, Maine. We divided our time  
7 between Virginia and Maine seasonally.

8       Q. Sure. Let me guess that the winters were not  
9 in Maine.

10       A. Yes. Yes, winters were not in Maine. We then  
11 rented a number of seasonal properties in South  
12 Carolina, and during this period of time purchased an  
13 apartment in New York City which we used seasonally as a  
14 Pied-à-terre. We sold the Pied-à-terre four years ago  
15 and purchased a home in Tallahassee, Florida, and so now  
16 my wife and I split our time between Spruce Head in  
17 South Thomaston, Maine and Tallahassee, Florida.

18       Q. No longer Virginia?

19       A. No longer Virginia.

20       Q. Okay. In some of the papers that we'll be  
21 looking at this morning there is an Austin address. I  
22 think it's Far West Boulevard. Has that ever been a  
23 home for you?

24       A. That is a mail service.

25       Q. Okay. Good. In the Fisher litigation, there

Edward Blum  
January 10, 2018

15

1 was a fifth circuit decision that was then reversed by  
2 the U.S. Supreme Court and remanded. Do you recall this  
3 in about 2013?

4 A. I do.

5 Q. Am I right that your hope had -- or your  
6 intention and hope had been that the Supreme Court  
7 instead of a remand would say that there must be color  
8 blind admissions tests without regard to unusual  
9 circumstances --

10 MR. STRAWBRIDGE: Object to the form of  
11 the --

12 Q. (BY MR. MCKETTA) -- without regard to  
13 compelling needs and narrowing tailors and other  
14 opportunities perhaps have colored based admissions?

15 MR. STRAWBRIDGE: I'm sorry. Object to the  
16 form of the question.

17 MR. MCKETTA: There we go.

18 A. I'm going to with your permission --

19 Q. (BY MR. MCKETTA) Of course.

20 A. -- kind of restate the question --

21 Q. Very fair.

22 A. -- and then answer it in the process of doing  
23 that.

24 Q. As long as it's somewhere in the same  
25 neighborhood as --

Edward Blum  
January 10, 2018

16

1       A. We're going to be -- we're going to be next  
2 door neighbors on this. So the Fisher litigation never  
3 asked any court including the Supreme Court to overturn  
4 previous precedent in going back to Bakke and then of  
5 course Grutter and Gratz.

6       Q. Right.

7       A. The UT lawsuit was specific to UT. So to the  
8 degree that we wanted the supreme court to strike down  
9 UT's admission's policies, that was our hope and that  
10 was the intention of the lawsuit.

11       Q. Right. Now, some would look -- some outsiders  
12 reading casually may look at the 2013 decision as a  
13 victory for SFFA -- for -- pardon me, for Abigail Fisher  
14 because it was a reversal of a decision that had been  
15 adverse to her, but am I correct that you personally  
16 were disappointed with the 2013 decision?

17               MR. STRAWBRIDGE: Object to the form of the  
18 question.

19       A. Yes, and, no.

20       Q. (BY MR. MCKETTA) Okay. Fair.

21       A. Yes, I was disappointed that the court didn't  
22 use the record it had before it to apply its new  
23 standard that it had just articulated and strike down  
24 UT's admission's policies, but I was pleased that the --  
25 the court vacated the fifth circuit opinion, applied a

Edward Blum  
January 10, 2018

17

1 new standard that it now applies nationally, and  
2 remanded it back for further consideration.

3 Q. Do you recall an interview that was  
4 broadcast -- released for broadcast about a month ago,  
5 December 6, 2017, in which you said that you had formed  
6 SFFA with the ultimate goal to have the Supreme Court  
7 revisit its unfortunate decision Fisher and end the use  
8 of race and ethnicity once and for all?

9 MR. STRAWBRIDGE: Object to the form of the  
10 question.

11 A. Yes, I do recall that.

12 Q. (BY MR. MCKETTA) All though the interview was  
13 in December 2017, you were recollecting back to an event  
14 that occurred before the 2014 formation of SFFA, were  
15 you not?

16 A. Could you remind me of which interview that  
17 was.

18 Q. December 6, 2017. I -- it's called The  
19 Architect, and it's in something called More Perfect.  
20 Does that ring a bell to you?

21 A. Yes.

22 Q. Okay.

23 A. Yes.

24 Q. Okay. Does it -- you remember that interview?

25 A. Kind of.



Edward Blum  
January 10, 2018

18

1 Q. Okay. But its reference was the ultimate goal  
2 of SFFA which as I understand it was formed in 2014?

3 A. Correct.

4 Q. And were you remembering back during this 2017  
5 interview to a purpose that you had in mind perhaps with  
6 others in 2014 when you formed SFFA?

7 MR. STRAWBRIDGE: Object to the form of the  
8 question.

9 A. So when Fisher 1 was granted cert --

10 Q. (BY MR. MCKETTA) Yes.

11 A. -- that was the seed that was planted for the  
12 formation of SFFA. So -- yes, so our thoughts started  
13 to be organized -- actually, I can't recall what month  
14 in 2012. Maybe it was December of 2012 that the court  
15 granted cert in Fisher 1.

16 Q. I have the date of the decision, but I don't  
17 with me have the date the cert.

18 A. I'll never forget the date of the decision --

19 Q. Of course, yeah.

20 A. -- but, yes, we started -- we started thinking  
21 about the next phase after -- after the Fisher  
22 litigation.

23 Q. But the reference in your interview in December  
24 2017 where you said the ultimate goal was to have the  
25 Supreme Court revisit its unfortunate decision in

Edward Blum  
January 10, 2018

19

1 Fisher, were you referring to Fisher 1 or Fisher 2?

2 MR. STRAWBRIDGE: Object to the form of the  
3 question.

4 Q. (BY MR. MCKETTA) Do you understand why I'm  
5 asking this time sequencing?

6 A. I do. I do. Well, Fisher -- I think to  
7 clarify, I think the -- the common wisdom and the belief  
8 that I had -- my legal team had and I think the kind of  
9 the general legal community -- was that on remand, the  
10 Fifth Circuit would strike down the University of  
11 Texas's plan.

12 Q. So -- so for Fisher 1, clearly the grant of  
13 certiorari in 2012 you treated as good news and not any  
14 unfortunate action by the supreme court.

15 A. Correct.

16 Q. And as to Fisher 1, did you treat that as  
17 unblemished good news, or did you treat that in any  
18 fashion as an unfortunate decision?

19 A. As I tried to explain earlier, it -- it is  
20 both.

21 Q. So that when you were interviewed in December  
22 of 2017, your reference about an ultimate goal to have  
23 the Supreme Court revisit its unfortunate decision in  
24 Fisher was the purpose for forming SFFA, that was  
25 harking back to Fisher 1?

Edward Blum  
January 10, 2018

20

1 MR. STRAWBRIDGE: Object to the form of the  
2 question.

3 A. Actually, the purpose for forming SFFA really  
4 did not have that much to do with the -- the -- kind of  
5 the unfortunate second decision --

6 Q. (BY MR. MCKETTA) Yes --

7 A. -- in -- in Fisher.

8 Q. -- because it had already been formed. SFFA  
9 was already up and running.

10 A. SFFA had been formed prior to that second  
11 decision, so I may have misspoken in that interview. I  
12 can tell you that when we -- there were a group of  
13 lawyers and advocates who kind of noodled over what this  
14 movement should do as the Fisher case was working its  
15 way to argument and then post-argument.

16 The idea of a membership organization to  
17 bring new lawsuits was -- was formed basically in late  
18 2012 and discussions all through 2013.

19 Q. Now, am I correct that the Project on Fair  
20 Representation Inc., assisted financing of Fisher but  
21 that SFFA did not?

22 A. That's correct.

23 Q. Or did SFFA have any role in assisting to fund  
24 the legal expenses for Fisher 2?

25 A. It did not.

Edward Blum  
January 10, 2018

22

1 A. Yes.

2 Q. At the time it was filed, there was the  
3 capacity under Virginia code to have a membership  
4 nonprofit or to have a nonmembership nonprofit. Did the  
5 corporator or the initial directors or the organizers  
6 make a choice as to which of those forms to have?

7 MR. STRAWBRIDGE: Object to the form of the  
8 question.

9 A. Well, as was explained to me by counsel at the  
10 time --

11 Q. And let's see if you can answer it in a way  
12 that does not quote counsel. So I -- I'm happy to learn  
13 your belief, but I don't want to put Patrick at the  
14 burden of a potential waiver of privilege.

15 MR. STRAWBRIDGE: Yeah, and I'll just --  
16 for the record, I'll -- I'll caution -- I'll caution  
17 you: You may answer the question to the extent you can  
18 do so without revealing any communications that were  
19 given to you by counsel in -- in -- in conveying or  
20 seeking legal advice.

21 Q. (BY MR. MCKETTA) Perfect. So let me just  
22 rephrase the question to conform with the way that  
23 Patrick has suggested.

24 I'm not asking what words were told you,  
25 but I'll ask first: Did you have any role in approving

Edward Blum  
January 10, 2018

23

1 the selection of what form of entity Students for Fair  
2 Admissions Inc would be?

3 A. Yes.

4 Q. And theoretically, it could have been a  
5 for-profit corporation, but that was not a choice that  
6 one did make or prudently would make.

7 A. Correct.

8 Q. Theoretically, it could be a nonprofit  
9 association that was not incorporated, could it not?

10 A. I assume so.

11 Q. But that was not a choice that was made.

12 A. Correct.

13 Q. Were you aware at its formation that there was  
14 the permissibility under Virginia law to have two  
15 different types of nonprofit corporation? On the one  
16 hand, one with members, and on the other hand, one  
17 without members. Were you aware of that capacity?

18 A. I'll answer it this way, Mr. McKetta.

19 Q. Sure.

20 A. The idea behind Students for Fair Admissions  
21 and the -- the predicate that -- that this organization  
22 was founded --

23 Q. Yes. Yes.

24 A. -- by was a membership organization.

25 Q. So your intent on creating it was to have a

Edward Blum  
January 10, 2018

26

1 months prior to SFFA, but I maybe wrong on that.

2 Q. Yeah, you are not a lawyer.

3 A. You bet.

4 Q. You're proud of that fact.

5 A. I'm actually not proud of it, but -- yeah,  
6 looking back --

7 Q. Lawyers, corporate lawyers, would know that a  
8 nonprofit or a corporation -- a nonprofit is created  
9 upon filing the satisfaction of certain requirements  
10 with a state -- secretary of state ordinarily and that a  
11 501(c)(3) exemption ordinarily is at a later date upon  
12 application and approval by the IRS.

13 My focus is not when was a 501(c)(3)  
14 exemption granted but the formation. Do you know which  
15 of the two corporations was formed first?

16 A. I can speculate.

17 Q. No, that's fine.

18 A. Okay.

19 Q. The document Exhibit 1 does not bear your  
20 signature.

21 A. I'm sorry, Mr. McKetta, I --

22 Q. Yes?

23 A. -- I -- I'm -- I'm mostly confident that  
24 Project on Fair Representation was incorporated prior to  
25 SFFA.

Edward Blum  
January 10, 2018

27

1 Q. I thought it was incorporated prior to Fisher  
2 1, but it was not?

3 A. It was not, no.

4 Q. Okay. Exhibit 1 is an article of incorporation  
5 that you're familiar with for SFFA.

6 A. Yes.

7 Q. It does not have your signature, but instead  
8 has the signature purporting to be Robert Benton. You  
9 know Mr. Benton; do you not?

10 A. I do.

11 Q. And it was you who retained Mr. Benton to form  
12 this corporation.

13 A. Yes.

14 Q. Did anybody in addition to yourself retain him  
15 to form this corporation?

16 MR. STRAWBRIDGE: Object to the form of the  
17 question. Are you talking about Students For Fair  
18 Admission?

19 MR. MCKETTA: SFFA, yes. Right.

20 A. No, I was the only one.

21 Q. (BY MR. MCKETTA) Okay. And did Mr. Benton  
22 share the articles with you in a draft form before they  
23 were filed with the -- with Virginia?

24 A. I'm sure he did.

25 Q. You can see that the second paragraph says,

Edward Blum  
January 10, 2018

28

1 "The corporation shall have no members." Do you see  
2 that?

3 A. Yes.

4 Q. Did that concern you?

5 A. No, because it was explained that there is a  
6 distinction between the Virginia -- the Virginia --

7 Q. Code?

8 A. -- what's it called -- Nonstop Corporation Act  
9 and the actual organization itself.

10 Q. And what was the distinction the way you  
11 understood it?

12 A. I think Mr. Benton explained this, that --

13 MR. STRAWBRIDGE: I just want to caution  
14 the witness --

15 MR. MCKETTA: To speak to his  
16 understanding, but not to what the lawyers said.

17 MR. STRAWBRIDGE: Right. Just in answering  
18 his questions, you may reflect on what your  
19 understanding as SFFA was, but please do so without  
20 revealing communications that you had with counsel or  
21 the substance of their communications with you.

22 MR. MCKETTA: Right. Good.

23 A. My understanding was that under the Virginia  
24 Nonstock Corporation Act there was a distinction between  
25 members who fell under that Act and then members of the



Edward Blum  
January 10, 2018

29

1 organization itself.

2 Q. (BY MR. MCKETTA) And based on that

3 understanding whether accurate or inaccurate under

4 Virginia law, you were satisfied that the articles of

5 incorporation would tell the secretary of state and the

6 world that the corporation shall have no members.

7 MR. STRAWBRIDGE: Object to the form of the  
8 question.

9 A. I was satisfied with the counsel and advice  
10 that I received.

11 Q. (BY MR. MCKETTA) There is a process available  
12 under Virginia code to amend articles of incorporation  
13 from time to time. Has SFFA's articles of incorporation  
14 ever been amended?

15 MR. STRAWBRIDGE: Object to the form of the  
16 question.

17 A. I -- I believe they have.

18 Q. (BY MR. MCKETTA) The bylaws have been amended.  
19 Do you believe also the charter -- the articles of  
20 incorporation have been amended?

21 A. I'm sorry, I -- I'm unclear about that.

22 Q. Okay. Yeah.

23 MR. MCKETTA: Patrick, is that a matter on  
24 which we have a stipulation, or is that a matter on  
25 which I need to ask for some supplemental discovery in a

Edward Blum  
January 10, 2018

32

1 A. It's ongoing.

2 Q. Would you look at the address given as the  
3 initial -- address of initial registered agent in  
4 Midlothian, Virginia. It's on page -- I think 1 of the  
5 articles of incorporation almost in the middle of  
6 paragraph 5.

7 A. Paragraph 5, yes.

8 Q. Are you familiar with that office?

9 A. I am not.

10 Q. Okay. Take a look at if you would at Exhibit  
11 2. You recognize this document, do you not, as a  
12 document that on one occasion you personally signed?  
13 (Exhibit No. 2 marked for identification.)

14 A. Yes.

15 Q. And can you look at the multiple counterpart  
16 pages 4 -- and see if you can recognize both your  
17 signature and Abigail Fisher's signature and Richard  
18 Fisher's signature.

19 A. Yes, I see them.

20 Q. Okay. On page 1 there is a designation of  
21 officers, yourself as President, Ms. Fisher as  
22 secretary, and Mr. Fisher as treasurer. Have those  
23 offices ever changed from the beginning of SFFA's  
24 existence through today?

25 A. No.

Edward Blum  
January 10, 2018

33

1 Q. And the signature that we looked at on the  
2 multiple counterpart pages 4 identified each of the  
3 three of you, Mr. Blum, Ms. Fisher, and Mr. Fisher as  
4 director. Was that accurate promptly following the  
5 formation, and did it continue to be accurate at all  
6 dates from then through today?

7 A. Yes.

8 Q. At a later time there was an addition of  
9 directors, but these three have remained directors at  
10 all times?

11 A. Yes.

12 Q. How did you come to know Mr. Fisher?

13 A. Mr. Fisher is an accountant for a real estate  
14 development company here in Houston, and I conducted  
15 business with the principles of that company and of  
16 course along the way met Mr. Fisher.

17 Q. And approximately when did you meet Mr. Fisher?  
18 I'd understood you had been in Houston up until 2000.  
19 Was it prior to 2000?

20 A. Oh, it was in the early '80's.

21 Q. So a long time ago?

22 A. A long time ago, yeah.

23 Q. I'm trying to do my arithmetic. Was it before  
24 Abigail Fisher was born?

25 A. No.

Edward Blum  
January 10, 2018

35

1 I recall from the first time I met some Fisher  
2 children -- and it may have only been one because Abby  
3 has an older sister -- was that they came to our house,  
4 and the daughter broke a little glass tchotchke -- a  
5 little glass knick-knack that my wife was very upset  
6 about. So I thought that was Abby, but it may have been  
7 her older sister. So forgive me if I'm -- - if I've --

8 Q. Ask Abby to forgive you for that --

9 A. Yeah.

10 Q. -- terrible memory if it was her sister.

11 A. Yeah. I -- I've forgiven her for lots of  
12 stuff, so -- yeah.

13 Q. So now how would you describe the  
14 communications you had prior to formation of SFFA with  
15 Mr. Fisher about the possibility of his becoming a  
16 director?

17 A. Mr. Fisher and I communicate if not daily, then  
18 almost daily.

19 Q. And did back then, as well?

20 A. Yes.

21 Q. And had been doing so for some years?

22 A. Yes.

23 Q. And daily -- let's leave aside now the  
24 litigation matters -- do you communicate daily or almost  
25 daily on business matters, as well?

Edward Blum  
January 10, 2018

36

1 A. Yes.

2 Q. Are you and he actually -- you are not a  
3 business partner with him or a co-investor with him on  
4 any projects, are you?

5 A. Well, I'm not sure how to -- how to -- I can  
6 kind of narrow some things down.

7 Q. Please, yeah.

8 A. There are occasionally private real estate  
9 deals that are shown to Mr. Fisher --

10 Q. Of course.

11 A. -- and his -- his employers. Sometimes those  
12 deals are shared with me, and sometimes I will invest  
13 along with that group. Sometimes I will find  
14 interesting investments and share that with Mr. Fisher  
15 and his -- and his employers.

16 So to that degree, the answer to your  
17 question is: Yes, but we do not have some kind of  
18 co-joined partnership in which we both have financial  
19 interest.

20 Q. And no business deals where each of you have,  
21 say, as much as 10 percent that you're sharing in the  
22 same project, nothing of that significance?

23 A. I -- I don't know what Mr. Fisher does. When  
24 Mr. Fisher shows me a deal and I invest in it, all that  
25 I -- all that I am assured of is that -- that Mr. Fisher

Edward Blum  
January 10, 2018

37

1 has reviewed it for his employers. Now, if Mr. Fisher  
2 puts his own money in it, I don't know. Yeah.

3 Q. I'm going to look with you at Exhibit 3.

4 (Exhibit No. 3 marked for identification.)  
5 Do you see that Exhibit 3 is a filing with the IRS that  
6 included in turn many exhibits?

7 A. I recognize that.

8 Q. And in this filing, one of the exhibits was the  
9 articles of incorporation that we've already reviewed  
10 today. Do you see that that was Exhibit A within this  
11 trial Exhibit 3?

12 A. Let's see. Exhibit A, let me find it -- yes, I  
13 see that on the table of contents. Yes.

14 Q. And the next exhibit, Exhibit B, to this trial  
15 Exhibit 3 was bylaws.

16 A. I see that here in the table of contents.

17 Q. And the bylaws have, do they not -- and these  
18 were the bylaws in effect at that time, at the time of  
19 this filing with the IRS in October of 2014.

20 A. Yes.

21 Q. And if you turn to those bylaws with me, do you  
22 see section 2 in article 1? It has a street address in  
23 Alexandria.

24 A. Oh, yes.

25 Q. Do you recognize that address?

Edward Blum  
January 10, 2018

38

1 A. I do.

2 Q. Whose address is that if you know?

3 A. That is the address, the former address, of a  
4 donor advised group called Donors Trust.

5 Q. Then in article 3 we have two paragraphs, one  
6 titled "Members" and one titled "Affiliate Members." Do  
7 you see that?

8 A. I do.

9 Q. The first says that the corporation shall have  
10 no members within the meaning of the Act.

11 A. Yes.

12 Q. And the second says that the corporation shall  
13 have one class of affiliate members and says they, "have  
14 no voting rights, and are not members within the meaning  
15 of the Act." Do you see that?

16 A. Yes, let me just read this.

17 "The corporation shall have one class of  
18 affiliate members with rights, privileges, and  
19 obligations established by the board of directors."

20 Q. Yes.

21 A. "Affiliate members will have no voting rights,  
22 and are not members within the meaning of the Act." And  
23 the word "Act" is capitalized.

24 Q. And you can tell that the word "Act" in a prior  
25 paragraph refers to the Virginia Nonstock Corporation

Edward Blum  
January 10, 2018

39

1 Act that you had mentioned earlier.

2 A. Yes.

3 Q. Why did SFFA in 2014 choose that it would have  
4 no voting members?

5 MR. STRAWBRIDGE: I'll just caution the  
6 witness that you may answer the question to the extent  
7 it does not require you to reveal communications that  
8 you had with your attorneys for purposes of getting or  
9 receiving legal advice.

10 Q. (BY MR. MCKETTA) And I can rephrase it if it  
11 helps, too. What was your understanding of the reason  
12 SFFA selected not to have voting members in 2014?

13 A. So at the time that we formed this group, we  
14 had, I guess, you know, four or five dozen members, and  
15 membership was relatively small. And it did not seem  
16 based on the size of our membership that there was any  
17 -- any need to have these few members have voting  
18 rights, yeah.

19 Q. So it was a conscious decision in 2014 that to  
20 the extent if any of the corporation had members, they  
21 would not be voting members?

22 A. Correct.

23 Q. Did anybody -- and this is only a "yes" or "no"  
24 question -- did anybody ever explain to you what  
25 burdens, if any, there would be under the Virginia



Edward Blum  
January 10, 2018

40

1 Nonstock Corporation Act if SFFA wished to have members  
2 within the meaning of the Act?

3 MR. STRAWBRIDGE: I'll just caution the  
4 witness that that's a "yes" or "no" question.

5 A. I'm afraid I can't -- I can't recall if that  
6 was discussed.

7 Q. Are you today aware whether there would or  
8 would not be any burdens on SFFA to comply with the  
9 Virginia Nonstock Corporation Act if it were to have  
10 statutory members?

11 MR. STRAWBRIDGE: Object to the form of the  
12 question.

13 A. I just don't -- I just don't know.

14 Q. (BY MR. MCKETTA) On page -- on the next page  
15 of the bylaws of this article 4, do you see section 4.03  
16 has a title of "Election and Term of Directors"?

17 And here's my question for you: I'm unable  
18 in this paragraph to find any term that is in one year,  
19 two year, three year and so on in term for directors.  
20 Was it intended that this paragraph would be silent as  
21 to the term of directors?

22 A. It was always my understanding that the  
23 directors would be -- the initial directors would be  
24 permanent.

25 Q. Okay. And then there's a similar provision

Edward Blum  
January 10, 2018

41

1 under section 6.02 a few pages further. Section 6.02  
2 refers now to officers, and it talks about term of  
3 office vacancies and removal. And I'm unable in  
4 paragraph -- in section 6.02 to find any term for the  
5 officers. Was that intentional?

6 A. It -- I -- I'll restate my earlier answer. It  
7 was always my understanding that the officers would be  
8 permanent.

9 Q. And that that would be yourself, Ms. Fisher,  
10 and Mr. Fisher?

11 A. Correct.

12 Q. Paragraph 6.05 authorizes SFFA to have agents  
13 and employees from time to time. Has SFFA ever had any  
14 employees for whom W2 compensation was given?

15 A. No.

16 Q. You have received compensation in recent time  
17 periods from SFFA; am I not correct?

18 A. Yes.

19 Q. But not as a statutory employee?

20 A. Correct.

21 Q. What is the characterization given to that  
22 compensation that's distributed to you from SFFA in  
23 current time periods?

24 A. Would you state that again. I'm sorry.

25 Q. Yeah, is it a director's fee -- what's the

Edward Blum  
January 10, 2018

42

1 character that's given to that --

2 A. Yes.

3 Q. -- if it's not a salary?

4 A. I -- I think it is -- I record it as a stipend  
5 for work preformed.

6 Q. Okay. And am I correct that no other person  
7 has received a stipend of that character from SFFA other  
8 than yourself?

9 A. That's correct.

10 Q. So until a fairly recent date, you received no  
11 compensation of any form from SFFA, and at all times  
12 Ms. Fisher and Mr. Fisher have received no compensation  
13 from SFFA.

14 A. That's correct.

15 Q. Thank you. What I'm looking for now is a page  
16 with your signature, and I'm just disorganized enough to  
17 have to search, but let's see if we can find it  
18 together.

19 I don't know the answer to whether your  
20 signature is the one that appears on page 2 of form 2848  
21 towards the top. Is that your signature?

22 A. So are we still on Exhibit No. 3?

23 Q. Exhibit 3, and if you'll go to the third,  
24 fourth, fifth, sixth page, there's a form 2848.

25 MR. STRAWBRIDGE: Is there a Bates

Edward Blum  
January 10, 2018

44

1 Q. Okay.

2 A. -- but that I recognize Brandy Zehr's name.

3 Q. Okay. You can see that the IRS application was  
4 mailed on October 8, 2014, and that's perhaps a little  
5 over two months after the formation of the corporation.

6 My question is: Why the delay of waiting  
7 to file the application for incorporation?

8 MR. STRAWBRIDGE: Object to the form of the  
9 question.

10 A. I -- I don't know.

11 Q. (BY MR. MCKETTA) There is on the first page of  
12 form 2848 -- with an Exhibit 3 on the first page -- an  
13 address on Far West Boulevard for Students for Fair  
14 Admissions Inc.

15 A. Yes.

16 Q. And you see that that's in Austin, Texas.

17 A. Yes.

18 Q. And I think you described earlier that's a mail  
19 drop service.

20 A. Correct.

21 Q. Why did Students for Fair Admissions Inc not  
22 furnish the IRS a physical location address?

23 MR. STRAWBRIDGE: In answering this  
24 question, I caution the witness not to reveal any  
25 information reflecting the advice of counsel or any

Edward Blum  
January 10, 2018

45

1 internal deliberations of SFFA. But to the extent that  
2 you can answer the question without revealing that  
3 information, you can.

4 MR. MCKETTA: Great.

5 A. SFFA is primarily managed by myself in my  
6 residence.

7 Q. (BY MR. MCKETTA) Right.

8 A. And because I have -- I'm sorry about this --  
9 because I have multiple residences, it's -- it's --

10 MR. MCKETTA: Let's go off the record a  
11 minute.

12 (Discussion briefly off the record.)

13 (Discussion back on the record.)

14 Q. (BY MR. MCKETTA) Why did SFFA not share an  
15 address with the IRS that corresponded to a physical  
16 location associated with its operations?

17 A. The operation of SFFA is run out of my -- my  
18 residence. And because I have multiple residences, all  
19 mail, personal and professional, go to Far West  
20 Boulevard.

21 Q. In -- there's the next IRS form in that Exhibit  
22 3 packet is form 1023, and there is given a mailing  
23 address for each of the three directors. Do you see  
24 that?

25 A. Let's see.

Edward Blum  
January 10, 2018

52

1 when we should expect after delivery to get your  
2 designation?

3 MR. STRAWBRIDGE: Can we agree to 30 days?

4 MR. MCKETTA: What's the protective order?

5 MR. STRAWBRIDGE: I don't know what the  
6 protective order says.

7 MR. MCKETTA: That's -- that's long.  
8 That's long.

9 MR. POWERS: I would do it shorter just to  
10 accommodate the briefing schedule, so 21 days.

11 MR. STRAWBRIDGE: Sure. 21 days is fair,  
12 and, of course, we're willing to work with on -- on --  
13 on, you know -- on any pleadings that need to be filed  
14 in the meantime. So, you know, we'll consider those  
15 when we've worked with other counsel and we'll continue  
16 to do so.

17 MR. MCKETTA: Thank you, Patrick.

18 Q. (BY MR. MCKETTA) Mr. Blum, would you describe  
19 the -- what you described is that after the initial few  
20 months in 2014 there was no financial relationship  
21 between POFR and SFFA; is that so?

22 A. Correct.

23 Q. And that the only relationship that you recall  
24 the two organizations having was during that initial  
25 year of 2014 for some organizational expenses that were

Edward Blum  
January 10, 2018

53

1 advanced by POFR to SFFA.

2 A. Correct.

3 Q. Have there been funds advanced by POFR to SFFA  
4 after 2014?

5 A. No.

6 Q. Did POFR continue to fund the Fisher  
7 litigation, both Fisher 1 and 2 proceedings?

8 A. Yes.

9 Q. Did SFFA ever fund any portion of the Fisher  
10 litigation?

11 A. No.

12 Q. What persons devote more than a few minutes of  
13 time a month to the work of POFR beside yourself?

14 A. Outside of legal counsel?

15 Q. What -- what -- what officers or directors or  
16 if there were any employees of POFR --

17 A. Oh, I see.

18 Q. -- attend to its affairs?

19 A. The -- the -- the officers and directors of  
20 POFR have no direct day-to-day contact and  
21 decision-making with POFR.

22 Q. They participate in a periodic board of  
23 directors meeting perhaps annually?

24 A. Correct.

25 Q. And you do all of the day-to-day matters for

Edward Blum  
January 10, 2018

54

1 POFR?

2 MR. STRAWBRIDGE: Object to the form of the  
3 question.

4 A. Yes.

5 Q. (BY MR. MCKETTA) In the role as its president?

6 A. Correct.

7 Q. Similarly for SFFA, how intensive would you  
8 describe the time commitments required of its directors  
9 and its other officers besides yourself?

10 A. They are -- they have responsibilities, and  
11 there are at least quarterly board meetings. And some  
12 of them have, I think, maybe sort of assignments that  
13 fall under their purview.

14 Q. The IRS application indicated that it was  
15 anticipated that POFR will continue to be the primary  
16 funder of SFFA. I'm reading from that same page we  
17 studied. Did those plans change shortly after October  
18 2014?

19 A. They evolved.

20 Q. And did their shift from POFR a reliance on a  
21 different primary fundraiser?

22 MR. STRAWBRIDGE: Object to the form of the  
23 question. I understand that to be a yes or no question.

24 A. So the answer is, yes.

25 Q. (BY MR. MCKETTA) And please identify the



Edward Blum  
January 10, 2018

57

1 membership due to SFFA?

2 A. Mr. McKetta, I'm a little confused. Are you  
3 asking have I ever personally paid \$10 to an outside  
4 party who wanted to join?

5 Q. I'm sorry. I must have really asked that  
6 poorly. I'm sorry.

7 A. Yeah. No, that's all right.

8 Q. There came a time when the board had a  
9 resolution saying we've waived dues until now --

10 A. Yes.

11 Q. -- but in the future, we may start charging \$10  
12 one time dues of nonstatutory members.

13 A. Right.

14 Q. I'm wondering -- prior to that time, nobody  
15 paid dues, right?

16 A. Correct.

17 Q. After that time, did you pay \$10 that was  
18 designated as dues to SFFA?

19 A. Did I, personally?

20 Q. Yes, sir.

21 A. I don't think so.

22 Q. Did Mr. Fisher?

23 A. I don't know.

24 Q. Did Ms. Fisher?

25 A. I don't know.

Edward Blum  
January 10, 2018

58

1 Q. Mr. Zhou, Z-h-o-u?

2 A. Again, I don't know.

3 Q. Mr. Chen?

4 A. I don't know.

5 Q. If you would look on this same form 1023 that  
6 is within trial Exhibit 3, at page 9 which has Bates No.  
7 203 at the bottom right hand corner --

8 MR. STRAWBRIDGE: 209?

9 MR. POWERS: Was it 203?

10 A. Yes, I see it here.

11 Q. (BY MR. MCKETTA) The -- this called upon not a  
12 historic but a projected information about various  
13 categories of revenue and expenses. Do you see that on  
14 this page?

15 A. Yes, page 9?

16 Q. (Indicating.) And were you the primary source  
17 of furnishing the numbers that would appear in these  
18 projections?

19 A. Yes.

20 Q. And the projections were that there would be \$2  
21 million in gifts, grants, and contributions over a  
22 two-and-a-half year period; is that so?

23 A. Correct.

24 Q. And the membership fees, the projection was  
25 would be \$0.

Edward Blum  
January 10, 2018

63

1 Q. (BY MR. MCKETTA) Okay. You're unaware -- was  
2 there ever a (indiscernible) solicitation sent out to  
3 ask prior nonstatutory members to now pay a one time \$10  
4 fee?

5 A. No.

6 Q. Then the second page of this Exhibit 5 has a  
7 "be it resolved" section --

8 A. I'm sorry, Mr. McKetta, Exhibit 5 or Exhibit 4?

9 Q. 4. Thank you very much for correcting me.

10 (Exhibit No. 4 marked for identification.)  
11 The second page has a "be it resolved" paragraph. That  
12 waiver of membership dues would continue until July 30,  
13 2015. Is that -- have I understand that correctly?

14 A. Correct.

15 Q. And after that time, individuals who became  
16 "general members" or nonstatutory members on or after  
17 July 30, 2015 would be required to pay a one time  
18 assessment of \$10 as membership dues.

19 A. Correct.

20 Q. Were there any waivers given after that date?

21 A. After July --

22 Q. 30th.

23 A. July 30, 2015?

24 Q. Yes.

25 A. Yes.

Edward Blum  
January 10, 2018

64

1 Q. So there have been subsequent people who were  
2 given status as nonstatutory members of SFFA, and after  
3 July 30, 2015 some of whom paid \$10 membership fee one  
4 time charge and some of whom did not?

5 A. Yes.

6 Q. Okay.

7 A. Can I clarify that?

8 Q. Oh, please. At any time you and I don't want  
9 to leave an inaccurate flavor by my poor questions or by  
10 your partial answers, so thank you.

11 MR. STRAWBRIDGE: And let me just -- let me  
12 just caution the witness: In answering that question,  
13 do not reveal the identity of any particular members of  
14 SFFA.

15 MR. MCKETTA: I didn't ask for that.

16 A. So occasionally -- and this happened a few  
17 weeks ago -- three high school students wanted to join.  
18 I think they were -- some of them were 16 and  
19 17-years-old and did not have a credit card. They had  
20 e-mailed me and said, "We want to be members, but we  
21 can't pay the \$10." And so I -- I have the -- within  
22 our bylaws, the right to grant them membership without  
23 the \$10, so there -- there may have been, you know,  
24 three or four or five kids like that over the last  
25 two-and-a-half to three years.

Edward Blum  
January 10, 2018

65

1 Q. (BY MR. MCKETTA) What's the current  
2 membership?

3 A. It's over 22,000.

4 Q. In this resolution there also was attention  
5 given to a change in status of the nonstatutory members,  
6 so that they would have a voting power for one director,  
7 correct?

8 A. Correct.

9 Q. And an enlargement on the board of directors  
10 from three persons to five persons --

11 A. Correct.

12 Q. -- for it to be self-perpetuate elected by the  
13 board and one by nonstatutory members?

14 A. Correct.

15 Q. And the newly elected fourth member of the  
16 board selected by the board members was Edward Chen.

17 A. Correct.

18 Q. And he served from late 2015 until about  
19 December 2016.

20 A. I think that's --

21 MR. STRAWBRIDGE: I'm sorry. You asked  
22 whether Mr. Chen was the newly elected board member by  
23 the members?

24 MR. MCKETTA: No, I said by the board.

25 MR. STRAWBRIDGE: Okay. Thank you. I just

Edward Blum  
January 10, 2018

66

1 wanted to -- I'm sorry.

2 A. I can't really confirm the dates, but that  
3 sounds generally about the time, yeah.

4 Q. (BY MR. MCKETTA) He no longer was a board  
5 member at the time this lawsuit was filed, was he? In  
6 July of 2017.

7 A. So --

8 Q. You remember he became ill in --

9 A. He became ill, and then he --

10 Q. -- late 2016.

11 A. He became -- he said -- I called, and he sent  
12 an e-mail saying he was ill, and he wasn't sure if he  
13 was going to live. And his wife said that that's  
14 malarky. He's just feeling sorry for himself.

15 And so we said, "Ed, you know, we'll give  
16 you sort of a temporary reprieve from serving on the  
17 board. You know, when you're -- when you're out of the  
18 hospital and you're feeling better, please contact us  
19 again."

20 He sent an e-mail. He said, "I'm okay, I'm  
21 back. When's the next meeting? I'm raring to go.  
22 What's going on?" So those dates are a little fuzzy to  
23 me.

24 Q. Did the board take action to approve the filing  
25 of this lawsuit against the University of Texas and

Edward Blum  
January 10, 2018

69

1 A. Correct.

2 Q. Now, let's go back to my earlier question. I  
3 had understood Edward Chen no longer was acting as a  
4 board member by July of 2017. Does this help you  
5 remember whether by that date he no longer --

6 A. I think that's right. I think that's right.  
7 We had a number of board meetings that Ed was not a  
8 participant. And I think according to the bylaws, at  
9 least on the advice of counsel, we were able to conduct  
10 those meetings.

11 Q. You had a majority present which is all that  
12 your bylaws appear to require.

13 Now, what I had notes on was that Mr. Chen  
14 joined the board in December 2015 and Mr. Zhou -- have I  
15 pronounced that correctly?

16 A. (Indicating.)

17 Q. Z-h-o-u joined the board in December 2015. Do  
18 those dates sound accurate to you?

19 A. They do.

20 Q. Mr. Zhou is Folsom, California --

21 A. Correct.

22 Q. -- and we discussed that Mr. Chen is in  
23 Houston.

24 A. Correct.

25 Q. Mr. Chen was a former litigant for whom you

Edward Blum  
January 10, 2018

70

1 performed Yenta the matchmaker services; is that not so?

2 A. Twice.

3 Q. And --

4 A. Actually, I take that back, Counsel. Three  
5 times.

6 Q. Oh, three times?

7 A. Yeah.

8 Q. And one of those was in Judge Atlas's court in  
9 the 1990's.

10 A. Correct.

11 Q. Describe briefly the other two. I'm not -- I  
12 don't care about great details, but roughly what were  
13 the other two occasions when you identified an important  
14 public issue, identified Mr. Chen as a potential person  
15 to be the litigant for that, matched an appropriate law  
16 firm, and gave whatever additional support was  
17 appropriate?

18 A. Mr. Chen resided in congressional district  
19 number 25, and to my knowledge he still does. So in  
20 1994 when a group including Mr. Chen and myself sued the  
21 State of Texas, Mr. Chen was a plaintiff in that case.

22 Q. Right.

23 A. Mr. Chen subsequently was dismissed from that  
24 case in the Supreme Court opinion for failure to have  
25 standing --



Edward Blum  
January 10, 2018

71

1 Q. Yes.

2 A. -- because he resided in one of the  
3 congressional districts that was not struck down as  
4 unconstitutional. Then Mr. Chen participated in a  
5 challenge to the Texas Senate Plan which followed. That  
6 case was styled Thomas vs. Bush. I think that's right,  
7 Thomas vs. Bush, and that case was -- was settled with a  
8 redrawing of those states' districts.

9 Q. He was one of several plaintiffs.

10 A. One of several, yes.

11 Q. Have you identified each of the people who then  
12 became plaintiffs to that lawsuit, or had others -- had  
13 some self-selected or self -- how -- how were those  
14 plaintiffs brought together for that one lawsuit?

15 A. Which lawsuit?

16 Q. Thomas.

17 A. Thomas.

18 MR. STRAWBRIDGE: Let me just caution the  
19 witness that when answering his question: Do not reveal  
20 any communications that you had with -- with -- or, you  
21 know, counsel for the purposes of giving or receiving  
22 legal advice.

23 Q. (BY MR. MCKETTA) Well, you were not a client  
24 for those lawsuits, were you?

25 A. I was.

Edward Blum  
January 10, 2018

72

1 Q. You were also a coplaintiff --

2 A. Correct.

3 Q. -- in each of the two that you've described so  
4 far?

5 A. Correct.

6 Q. Okay. I -- I'm with you. So my question is:  
7 Did -- did all of the coplaintiffs -- yourself, Mr.  
8 Chen, Ms or Mr. Thomas, and others -- were they people  
9 that you identified and pulled together, or did they  
10 come together from some other fashion?

11 A. We were all friends --

12 Q. Yeah.

13 A. -- and active in Harris County Republican  
14 activities.

15 Q. The third lawsuit with Mr. Chen?

16 A. That was Chen vs. City of Houston --

17 Q. That was the Nancy Atlas one?

18 A. -- in Nancy's -- Nancy Atlas' court.

19 Q. All right. And were there coplaintiffs in that  
20 one?

21 A. Yes.

22 Q. Were you a plaintiff in that one?

23 A. I'm pretty sure I was, yeah.

24 Q. Now, in the Fisher litigation, did Mr. Chen  
25 ever have any role in discussing that litigation with

Edward Blum  
January 10, 2018

79

1 Q. How fuzzy? Describe how it's accurate.

2 MR. STRAWBRIDGE: Object to the form of the  
3 question.

4 A. It -- I think if you looked at the broad  
5 definition of "waived," it could include  
6 non-intentional -- a non-intentional act and an  
7 intentional act. If you're asking me was it an  
8 intentional act to waive membership fees at the  
9 beginning of this organization, I would say, no.

10 Is it an unintentional outcome that  
11 producing or imposing a membership fee resulted in a  
12 waiver, then I can -- I can answer that in the  
13 affirmative.

14 Q. (BY MR. MCKETTA) In the -- now, I'm going to  
15 go back to the bylaws which started at Bates No, page 59  
16 and are part of Exhibit 4.

17 A. Okay.

18 Q. In section 3.02 that carries over to the next  
19 page, the last sentence says that these nonstatutory  
20 members, "shall have the right to vote for one  
21 member-elected director pursuant to section -- " do you  
22 see that?

23 A. I do.

24 Q. How was it decided to have the capacity to vote  
25 for only one and not for all five?

Edward Blum  
January 10, 2018

80

1 A. I'm -- I'm unaware of any not-for-profit  
2 membership board that requires members to vote for each  
3 and every director and officer. We -- the three of us  
4 who were original directors and officers purposefully  
5 made ourselves permanent directors and officers.

6 Q. Am I right that a single director on a five  
7 member board would never alone have the power to control  
8 any vote?

9 A. Yes.

10 Q. Am I right that three permanent directors on a  
11 five member board, if they were in agreement and  
12 principle with one another, would always have the power  
13 to control any vote?

14 A. Any three members, permanent or not, would have  
15 the power to control a vote.

16 Q. Right. And I'm not now going to ask you  
17 specifics of any topic on which there may have been  
18 division, but I'm going to ask you: Has there ever been  
19 a vote in which you, Mr. Fisher, and Ms. Fisher voted in  
20 different ways?

21 MR. STRAWBRIDGE: I'm going to object to  
22 the question and instruct the witness not to answer on  
23 grounds of associational privileges. It's to seek -- it  
24 seems to seek information about the internal workings of  
25 the organization.

Edward Blum  
January 10, 2018

82

1 MR. STRAWBRIDGE: He can answer that  
2 question yes or no.

3 A. Yes.

4 Q. (BY MR. MCKETTA) Okay. Can you -- in the  
5 initial bylaws there was no requirement that directors  
6 be one or more of the nonstatutory members. Here on  
7 section 403 there's a qualification requirement that all  
8 directors must be "general members" of the corporation.  
9 Do you know why that change was made?

10 MR. STRAWBRIDGE: Object to the form of the  
11 question.

12 A. I don't know why it was made, but I can add  
13 that all of the directors were members of SFFA when they  
14 were appointed to that position.

15 Q. (BY MR. MCKETTA) What we -- we talked earlier  
16 about three potential requirements to become a  
17 nonstatutory member and two actual requirements because  
18 the board had not prescribed additional ones to become a  
19 nonstatutory member. What are the duties, if any, of a  
20 nonstatutory member of SFFA?

21 A. So by duties if you mean some kind of activity  
22 that they -- that they are required to do, there are no  
23 activities that we ask our 20,000 members -- or 22,000  
24 members to -- to perform.

25 Q. What rights, if any, do nonstatutory members of

Edward Blum  
January 10, 2018

83

1 SFFA have?

2 A. They have the right to elect a board member.

3 They have the right to participate in our conference

4 calls. They have the right to resign if they object to

5 the direction of SFFA. I think that's it.

6 Q. As to conference calls, are there regularly  
7 scheduled intervals for conference calls such as  
8 annually or quarterly or monthly and so on?

9 MR. STRAWBRIDGE: And I'll just caution the  
10 witness he may answer this question so you don't  
11 disclose the content of any particular conference call  
12 among the membership.

13 A. The answer is, yes.

14 Q. (BY MR. MCKETTA) And what is that interval?

15 A. Annually, and I believe there was one other  
16 time that we -- I think this is right, Mr. McKetta, that  
17 we invited our members to a conference call outside of  
18 the annual -- the required annual one. I think that's  
19 right.

20 Q. When was the first annual meeting -- annual  
21 conference call? Was it in 2014, 2015, or 2016?

22 A. Oh, gosh. I'm going to say it was probably  
23 2015.

24 Q. And then there was another one in 2016 and then  
25 another in 2017.

Edward Blum  
January 10, 2018

89

1 that a nonprofit corporation in Virginia only have  
2 members if the authority to do so is specified in the  
3 articles?

4 MR. STRAWBRIDGE: Object to the form of the  
5 question.

6 Q. (BY MR. MCKETTA) Are you aware?

7 A. I'm not aware of that.

8 Q. The -- when was the last election of any  
9 director?

10 A. December of 2017.

11 Q. And who, if anybody, was elected?

12 A. Mr. Alex Chen.

13 Q. And what relation, if any, does he have to  
14 Edward Chen?

15 A. They are not related.

16 Q. Okay. Where does he live?

17 A. He lives in the Silicon Valley area of  
18 California.

19 Q. Was there in December of 2017 any action to  
20 reelect yourself, Ms. Fisher, or Mr. Fisher?

21 A. No.

22 Q. When was the last time there was any action  
23 taken to consider reelection of yourself, Mr. Fisher, or  
24 Ms. Fisher?

25 A. We are permanent members.

Edward Blum  
January 10, 2018

90

1 Q. When was the last time that there was any  
2 action taken whether to reelect Mr. Z-h-o-u, Zhou?

3 A. Mr. Zhou was voted as the new permanent  
4 director to replace Mr. Ed Chen.

5 Q. So is Mr. Alex Chen elected by the nonstatutory  
6 members?

7 A. Yes.

8 Q. And Mr. Zhou was elected by the board --

9 A. Correct.

10 Q. -- in December of 2017.

11 A. It may have been in November. I can't recall  
12 -- or maybe perhaps a little earlier than that.

13 Q. What was the method furnished to nonstatutory  
14 members to determine whether they wished to vote? Was  
15 it e-mail communication?

16 A. Oh, yes. E-mails were sent repeatedly, two or  
17 three times to the entire membership roll. Instructions  
18 were given about how to self-nominate. Once those  
19 self-nominated candidates had been identified, they were  
20 required to provide some brief information about  
21 themselves and what their motivation was for serving on  
22 the board. Then another e-mail was sent to the full  
23 membership with that information, and people were asked  
24 to cast a ballot.

25 Q. Please give me the approximate number of total



1 ballots cast. I'm not asking for which person, but only  
2 a total.

3 MR. STRAWBRIDGE: Object to the question,  
4 and I instruct the witness not to answer on grounds of  
5 associational privilege.

6 Q. (BY MR. MCKETTA) Would have the capacity to  
7 answer had you not been so instructed?

8 A. Yes, yes.

9 Q. Would you have the capacity -- please state  
10 whether as many as one half of your nonstatutory members  
11 cast a vote?

12 MR. STRAWBRIDGE: Same -- same objection.  
13 Same instruction.

14 Q. (BY MR. MCKETTA) Would you have the capacity  
15 to answer?

16 A. Yes.

17 Q. Please state whether [REDACTED] cast a  
18 vote.

19 MR. STRAWBRIDGE: Same objection. Same  
20 instruction.

21 Q. (BY MR. MCKETTA) Do you know the answer?

22 A. I don't know the answer.

23 Q. Okay. Do you know whether Ms. Davis, the other  
24 standing person named in this case, cast a vote?

25 MR. STRAWBRIDGE: The question is: Does he

Edward Blum  
January 10, 2018

93

1 basically vote for themselves, and I am unclear if we  
2 have done that.

3 Q. Your recollection was that in December of 2017  
4 there was not any board vote taken as to the three  
5 original directors. That -- that was your recollection;  
6 was it not?

7 A. I believe that's right.

8 Q. And I assume that if you learned that that  
9 recollection was mistaken, you'll take some steps to let  
10 Mr. Strawbridge know so that he may re-advise us.

11 A. I will.

12 Q. Is it your intent to ask that the lawyers  
13 further revise the bylaws so that the original three  
14 will be stated as permanent instead of two year  
15 directors?

16 MR. STRAWBRIDGE: Object to the form of the  
17 question.

18 A. I'll seek counsel's guidance on if that's  
19 necessary or not.

20 Q. (BY MR. MCKETTA) But your -- your desire and  
21 intention with Mr. Fisher and Ms. Fisher always has been  
22 the three of you would be permanent directors of this  
23 organization?

24 MR. STRAWBRIDGE: Object to the form of the  
25 question.

Edward Blum  
January 10, 2018

94

1 A. Yes, we'll be permanent members and if  
2 required, schedule a vote among the three of us every  
3 two years.

4 Q. (BY MR. MCKETTA) Are there certificates of  
5 membership given?

6 A. We send a welcome e-mail to everyone that --  
7 that joins. I'm not sure that we call it a certificate  
8 of membership, but it is a welcome letter with  
9 information and greetings.

10 Q. For the annual telephone conference, is it  
11 called as a statutory meeting of members? Do you call  
12 it a meeting or do you call it a conference?

13 MR. STRAWBRIDGE: Object -- object to the  
14 form of the question.

15 A. I don't know.

16 Q. (BY MR. MCKETTA) Who does the mechanics of  
17 arranging for that annual teleconference to occur?

18 A. Engage DC.

19 Q. And the invitation to participate in the  
20 teleconference is done by e-mail --

21 A. Yes.

22 Q. -- from that vendor?

23 A. Yes.

24 Q. Is an agenda package sent out with that e-mail  
25 invitation?

Edward Blum  
January 10, 2018

106

1 Q. And I don't recall that any amount was  
2 indicated in 2014. Did that stipend commence in 2015?

3 A. Yes, it did. That's correct.

4 Q. Okay. There are three directors of Project on  
5 Fair Representation Inc; are there not?

6 A. Officers and directors, yes.

7 Q. You are a director and the executive director.  
8 Are you also president?

9 A. I think I'm president now, yeah. Yeah.

10 Q. Mr. Pfenninger, Edward P-f-e-n-n-i-n-g-e-r, is  
11 secretary and director.

12 A. Yes.

13 Q. Patricia Brookes is treasurer and director.

14 A. Yes.

15 Q. What relationship, if any, do you have with Mr.  
16 Pfenninger?

17 A. Just a friend.

18 Q. Was he ever a plaintiff in litigation --

19 A. He was.

20 Q. -- for whom you performed Yenta the matchmaker?

21 A. I -- I did, yes.

22 Q. Describe just very briefly if you would the  
23 approximate date of that litigation and the -- just the  
24 general topic of what it was about.

25 A. The styling of that lawsuit was Evenwel vs.

Edward Blum  
January 10, 2018

111

1 that was for Fisher vs. University of Texas. There were  
2 other -- there was another major lawsuit that was argued  
3 at the Supreme Court and a number of amicus briefs that  
4 contributed to that sum.

5 Q. But the only fees and costs that you believe  
6 anybody paid to the Consovoy Firm for Fisher were from  
7 POFR?

8 A. That's correct.

9 Q. Okay. You remember we talked about an  
10 interview that you engaged in that was -- I don't know  
11 when it occurred, but it was released for public  
12 availability around December 6, 2017. It was called the  
13 Architect. Do you remember that?

14 A. And would you remind me of the year of that  
15 again?

16 Q. 2017.

17 A. 2017, yes.

18 Q. It was essentially an update of an interview  
19 that had occurred at an earlier date. I don't know if  
20 you remember that.

21 A. I do.

22 Q. Okay. Here's my question: The word -- the  
23 title of that interview "The Architect" is from a word  
24 that you have used to describe yourself; is it not?

25 A. Yes.

Edward Blum  
January 10, 2018

112

1 Q. And would you help us understand how you mean  
2 the word "architect" when you're referring to the Fisher  
3 litigation or other litigation where you have performed  
4 a role.

5 MR. STRAWBRIDGE: Object to the form.

6 A. In general terms because I am not an attorney,  
7 the process by which I go about supporting and  
8 fulfilling the mission of these organizations is to  
9 identify an area of the law that I believe needs  
10 revising or needs to be overturned completely.

11 I hire counsel to help me achieve that  
12 goal. I reach out and find individuals, or individuals  
13 reach out and find me who would be plaintiffs in a case  
14 that would further our mission. So architect seemed to  
15 be the -- the kind of general term that most people can  
16 understand. I'm not a litigator. I'm not an attorney,  
17 so that -- that seems to be -- I can draw things, but  
18 it's going to require an engineer and a contractor to  
19 really build it.

20 Q. Very fair. I prefer the phrase Yenta the  
21 matchmaker, but the architect --

22 A. It's a lot easier, yeah.

23 Q. Each of those -- each of those gives the  
24 imagery to describe the role that you have performed in  
25 the couple dozen or perhaps more lawsuits.

Edward Blum  
January 10, 2018

113

1 A. That's accurate.

2 Q. One of those lawsuits is the Fisher lawsuit  
3 that we've talked about.

4 A. Yes.

5 Q. One is SFFA's lawsuit against Harvard.

6 A. Yes.

7 Q. One is SFFA's lawsuit against the University of  
8 North Carolina.

9 A. Yes.

10 Q. And one is this lawsuit that we're taking this  
11 deposition in SFFA against University of Texas at  
12 Austin.

13 A. Yes.

14 Q. What I'd like to do for the next short while is  
15 walk through with you perhaps a dozen or 15 Exhibits  
16 that appear to be news reports typically of interviews  
17 with you, and on some of them I'll have some specific  
18 questions, but I think I'll always start by asking you  
19 are you familiar with the interview that led to this.

20 So let me --

21 MR. MCKETTA: Can you separate all of  
22 these? I'm going to take -- can you take one to give to  
23 Patrick?

24 Q. (BY MR. MCKETTA) Exhibit 11 is from Mother  
25 Jones.

Edward Blum  
January 10, 2018

117

1 Q. Well, I don't think you've gone nearly as gray  
2 as some of us?

3 A. Well, she also -- this is the first time ever  
4 that I have been called dapper.

5 Q. I like the word "dapper."

6 A. Dapper -- that is -- that's a -- I guess I like  
7 that word. You know, it -- if I were a woman and -- and  
8 I had been called matronly, that may have been a little  
9 -- a little, you know, offensive. Dapper, I don't know.  
10 We're coming right up to the Cole Porter era here.

11 Q. Well, Frank Sinatra who you had be described as  
12 favoring, was it Cole Porter instead?

13 A. Yes -- well, you -- I liked them all. I like  
14 both of those guys.

15 Q. On the next to last page almost at the bottom  
16 of the page, you'll find some yellow highlighting that  
17 says, "it took" -- did you find that?

18 A. Yes, I do. I see this.

19 Q. It -- it has three sentences in that paragraph.  
20 Are those accurate?

21 A. So it took -- yes, that -- that's accurate.

22 Q. The reference there is to the Fisher lawsuit  
23 rather than to the current SFFA lawsuit; is it not?

24 A. Oh, yes.

25 Q. And that it took you nearly three years to find



Edward Blum  
January 10, 2018

118

1 a friendly face to file a lawsuit challenging University  
2 of Texas in what became called the Fisher lawsuit.

3 A. That's correct.

4 Q. Okay. And that you set up a website called  
5 UTnotFair -- it actually says .com; is that not right?

6 A. Correct.

7 Q. Then the way this reporter wrote it is in the  
8 end, "He settled on Fisher, the daughter of an  
9 acquaintance." Actually, didn't you select two people  
10 as plaintiffs?

11 A. After the lawsuit was filed --

12 Q. Yes.

13 A. -- we amended our complaint to add another  
14 plaintiff.

15 Q. Did that other plaintiff remain in the lawsuit  
16 through the end?

17 A. No.

18 Q. Okay. Now, in that lawsuit during that three  
19 years of trying to identify the appropriate plaintiff to  
20 use for that public policy question, at what point in  
21 that three years did you ask litigation counsel to  
22 become ready to be involved if and when a plaintiff were  
23 identified?

24 MR. STRAWBRIDGE: And I'll just caution the  
25 witness, the answer I think he asked for is basically a

Edward Blum  
January 10, 2018

119

1 date which is --

2 MR. MCKETTA: The dates were arranged or an  
3 approximate date, not -- not the communication, yeah.

4 MR. STRAWBRIDGE: Don't disclose any actual  
5 communications regarding strategy or the --

6 A. So I believe Grutter was decided in 2003. The  
7 University of Texas announced that day of their intent  
8 to reintroduce race as an admissions criteria. Shortly  
9 thereafter, I think legal sort of informal discussions  
10 started taking place about the legality of UT's  
11 expressed desire.

12 Q. (BY MR. MCKETTA) And thank you for identifying  
13 the topic, not the communications, please -- but just  
14 the topic. Was that with Wiley Rein?

15 A. Yes, and -- and with others, yeah.

16 Q. Right. Did Ms. Fisher ultimately select which  
17 lawyer to use in that case or did you or did someone  
18 else?

19 A. Ms. Fisher had the ultimate say in which lawyer  
20 she was going to use.

21 Q. Who selected Wiley Rein?

22 A. I recommended Wiley Rein.

23 Q. And then when Consovoy spin off from Wiley  
24 Rein, was it you who made the recommendation that -- the  
25 spin off would also provide services?

Edward Blum  
January 10, 2018

120

1 A. Yes.

2 Q. And you arranged 100 percent of the funding  
3 from resources that had been raised by POFR?

4 A. Yes.

5 Q. Okay. Do you remember approximately when the  
6 UTnotFair website was established?

7 A. Oh, gosh.

8 MR. STRAWBRIDGE: And can I clarify because  
9 I think that just -- do you mean UTnotFair.com?

10 MR. MCKETTA: I do.

11 MR. STRAWBRIDGE: Okay.

12 A. Was that the first -- was UTnotFair.com --

13 Q. (BY MR. MCKETTA) Let's -- let's -- to -- what  
14 I'd love to do is learn have there been several websites  
15 with either the same or similar names that have been  
16 used at different times? So maybe that's a better way  
17 to ask it.

18 A. Good. That will help me answer accurately  
19 without having to --

20 Q. Yes.

21 A. -- speculate. Mr. McKetta, what was your  
22 question again? I'm sorry.

23 Q. Yes. How many websites have you created or  
24 used in connection with the recruiting of potential  
25 plaintiffs for litigation against the University of

Edward Blum  
January 10, 2018

123

1 and web design company often will -- will come behind  
2 some activity, and then introduce a Facebook account or  
3 a Twitter account. And that's -- that's the sequence of  
4 events, so conceivably that website went up a month  
5 before that Twitter account was established.

6 Q. Exhibit 12 is an article that is from the New  
7 York Times.

8 (Exhibit No. 12 marked for identification.)  
9 This earlier in time -- this was February 2012. Do you  
10 recall any interview with Morgan Smith in early 2012  
11 that -- that led to this article?

12 Let me take it back -- do you first -- do  
13 you remember this article?

14 A. I'm pretty sure I do.

15 Q. Yeah.

16 A. Did it have a picture of me in New York?

17 Q. I don't -- I don't have it with me. I just  
18 don't know.

19 A. Yeah, that's all right. I think this is right.  
20 Yeah, I -- yeah.

21 Q. If it had a picture, it would have been dapper;  
22 would it not?

23 A. I -- I hope so. I -- I do remember, I think,  
24 for this -- for this article The Times sent a  
25 reporter -- not a reporter -- a photographer to my -- to

Edward Blum  
January 10, 2018

124

1 my apartment, and the doorman was kind of a little  
2 concerned with what was going on. So --

3 Q. And this is the one on the second page towards  
4 the bottom that had the Yenta the matchmaker imagery  
5 that I had asked you questions about earlier today.

6 A. Yes.

7 Q. Okay. And do you think that that quote is  
8 substantially accurate to what you told the reporter?

9 A. It is. It is.

10 Q. Let me show you what's been marked as Exhibit  
11 13.

12 (Exhibit No. 13 marked for identification.)  
13 Exhibit 13 is from Texas Tribune from a little shy of  
14 two years ago. Can you recall any interview with Texas  
15 Tribune?

16 A. Actually, I'm sorry. I can't.

17 Q. Okay. Do you remember ever seeing this article  
18 before today?

19 A. Let me -- let me read this. Just a second.

20 Q. If it helps -- I don't mean to interrupt your  
21 concentration, but at the bottom of page 3 is an  
22 instance where you purport to be quoted if that helps  
23 your recollection.

24 A. You know, I'm -- I -- I don't remember this  
25 interview, but I -- I -- that -- that quote, I have used

Edward Blum  
January 10, 2018

128

1 work -- the -- the pace at which we were going to write  
2 this book, and -- that's why that -- that, yeah.  
3 Coauthors often are rather difficult.

4 Q. Then on page 9, the next to last paragraph  
5 talks about he set up a web address, and this is the  
6 "org" address. Do you see that?

7 A. I -- I think that's right, yes.

8 Q. All right. And gave speeches, and then it  
9 says, "and hounded everyone he knew at the state post."  
10 That's an exaggeration; is it not?

11 A. It is an exaggeration.

12 Q. But is it accurate that you would bump into  
13 people in restaurants and bars that you knew from high  
14 school that had kids graduating from high school, and  
15 you would say, "If that child doesn't get in, please let  
16 me know. I want to represent her"?

17 MR. STRAWBRIDGE: Object to the form of the  
18 question.

19 A. That's accurate.

20 Q. (BY MR. MCKETTA) Okay. And here the part  
21 that's in quotes on the interview says, "and I was such  
22 a nudge. If she doesn't get in, I want to represent  
23 her." Do you think that's substantially accurate what  
24 the reporter captured?

25 A. Yes.

Edward Blum  
January 10, 2018

129

1 Q. Now, many people use the word "represent"  
2 either in an agency relationship like a movie agent or  
3 sports agent or in a lawyer relationship. You didn't  
4 mean either of those, did you?

5 A. I didn't.

6 Q. What did you mean by you wanted to represent  
7 her?

8 A. I wanted to be the matchmaker.

9 Q. Yes, back to the Yenta description we had --

10 A. Yes. Right.

11 Q. Exhibit 17 purports to be an article from  
12 Newsweek, and my first question to you is whether you  
13 recall this article?

14 (Exhibit No. 17 marked for identification.)  
15 This was from about a year -- no, about two-thirds of  
16 the year ago.

17 A. No, I'm sorry. I don't -- I don't remember it.

18 Q. Okay.

19 A. I'm -- I'm happy to be guided to --

20 Q. Sure.

21 A. -- any area.

22 Q. On the second page, you see Mr. Rein.

23 A. Yes.

24 Q. And that's Ms. Fisher.

25 A. Yes.

Edward Blum  
January 10, 2018

137

1 Are you familiar with this article?

2 A. Yes. Yes, I am. Yes.

3 Q. And you know Ralph Horowitz.

4 A. I do.

5 Q. Do you find him to be a responsible reporter?

6 A. I do.

7 Q. Any reason to think that this article does not  
8 fairly reflect the interview that you and Mr. Horowitz  
9 had?

10 A. It was a painful time, but it -- I think, it  
11 accurately reflected my conversation with Ralph.

12 Q. So the adverse decision in Fisher 2 came down  
13 in June of 2016.

14 When did you begin steps towards  
15 identifying the possibility of a state court lawsuit  
16 against University of Texas at Austin?

17 MR. STRAWBRIDGE: And let me caution the  
18 witness. I think -- I think Mr. McKetta's question  
19 calls for an approximate date, and that's -- please  
20 confine your answer to the date.

21 MR. MCKETTA: That's correct.

22 A. So, Mr. McKetta, I will answer that it occurred  
23 on the date Fisher came down.

24 Q. (BY MR. MCKETTA) And on that date you had not  
25 yet identified any plaintiff for a new lawsuit?



Edward Blum  
January 10, 2018

138

1 A. That's correct.

2 Q. But you had identified that this was an issue  
3 that you wish to have a rule in litigating?

4 A. So let me see if I can clarify this.

5 Q. Sure.

6 A. The day the opinion came down, there were  
7 dozens of conversations between myself and our legal  
8 advisors and supporters and fellow advocates, and the --  
9 the idea of a state challenge was broached on that date.

10 Q. When did you begin efforts to identify a  
11 potential plaintiff or person for purposes of standing  
12 to use in a new lawsuit to challenge University of  
13 Texas?

14 MR. STRAWBRIDGE: Object to the form of the  
15 question.

16 A. Soon after admission and rejection letters went  
17 out in 2017.

18 Q. (BY MR. MCKETTA) Why did you not look for  
19 people who had been rejected in 2016?

20 MR. STRAWBRIDGE: Let me just caution the  
21 witness in responding to this question, please do not  
22 reveal the discussions or communications you had with  
23 counsel for the purposes of receiving or giving legal  
24 advice.

25 A. I don't think I can answer the question then.

Edward Blum  
January 10, 2018

155

1 for SFFA printed it from POFR as responsive to one of  
2 the documents --

3 A. Okay.

4 Q. -- even though it's not on the SFFA website.

5 MR. STRAWBRIDGE: Let -- let me clarify,  
6 Counsel. I think there's an exhibit stamp on this which  
7 indicates this document was an exhibit to a prior  
8 deposition that I believe was produced to you under the  
9 rules of Texas, and so I do not necessarily agree that  
10 this document was purchased or provided by SFFA. It may  
11 have been used in another deposition by another -- in  
12 another case.

13 MR. MCKETTA: So the Bates No, on the  
14 bottom right corner does indicate that it came to the  
15 defendants from plaintiff.

16 MR. STRAWBRIDGE: Correct. What I'm  
17 suggesting is I think it was produced as part of a  
18 production in the deposition exhibits as opposed to a --  
19 a direct production by SFFA.

20 Q. (BY MR. MCKETTA) Can you tell us what Exhibit  
21 25 is?

22 MR. STRAWBRIDGE: Me?

23 MR. MCKETTA: No, sorry. Mr. Blum.

24 A. Yes. Well, this looks like a list of the --  
25 that both POFR and Students for Fair Admissions have

Edward Blum  
January 10, 2018

156

1 filed. It doesn't look like it's a complete list,  
2 however. There's a -- there's at least one lawsuit that  
3 we are engaged in that is not listed here, and I know  
4 there's a couple of amicus briefs that are not listed  
5 here. I'm confident of that, but I -- I -- based on the  
6 first paragraph, this looks like it came from the  
7 Project on Fair Representation website.

8 Q. If one today clicks the website, one finds an  
9 electronic page called "Our Cases" --

10 A. Right.

11 Q. -- which has substantial overlap with this  
12 document, but some differences. Does that comport with  
13 your expectation?

14 A. Yeah. I think so, yeah.

15 Q. And that's perhaps because this appears to have  
16 been snapped back in May of 2017 --

17 A. Okay.

18 Q. -- so historically it's got more than half your  
19 age on it.

20 A. Yes, as of May of -- I think May of 2017 there  
21 was one other case that we were engaged in that's not  
22 listed here.

23 Q. Which one is that?

24 A. It was Students for Fair Admissions vs. The  
25 Department of Education.

Edward Blum  
January 10, 2018

157

1 Q. Got you. Now, what's the phrase "Our Cases"  
2 mean in Exhibit 25?

3 A. I think it -- it's a general description for  
4 visitors to the website to learn about the kinds of  
5 legal activities in which we're engaged.

6 Q. Who updates from time to time the text on the  
7 page on the website for POFR called "Our Cases"?

8 A. Well, that's my responsibility, and sometimes  
9 I'm remiss in doing that.

10 Q. But the information in Exhibit 25 probably was  
11 authored by yourself?

12 A. Let's see. I don't think so.

13 Q. Who do you think authored it?

14 A. I -- I think counsel in each one of these cases  
15 authored this -- this text, and I believe it came either  
16 directly -- like, for instance, in the amicus brief  
17 directly from the brief itself, and in the other cases I  
18 think it either came from the complaint or -- no, you  
19 know, some of these settled cases I probably wrote like  
20 Shelby County, Alabama. That -- that sounds like me.  
21 The Northwest --

22 Q. That was a big to do. Congratulations.

23 A. What's that?

24 Q. That was a big to do. Congratulations.

25 A. Yes, thank you. Northwest Austin, that sounds

Edward Blum  
January 10, 2018

158

1 like me. Evenwel vs. Abbott, that doesn't sound like  
2 me. That's -- that's really very legalese. There's no  
3 semicolons in that, and I love semicolons. So that  
4 leads me to believe that wasn't me.

5 Q. That was a lawsuit that included your fellow  
6 board member, Pfenninger?

7 A. That's correct, yeah.

8 Q. Now, who made the selection of which cases  
9 should be assembled on this web page called "Our Cases"?

10 A. I'm sure I did.

11 Q. And if one today were to go on the POFR website  
12 and click the corresponding "Our Cases" tab, would the  
13 selection of cases that's there today also be your  
14 selection?

15 A. Yes.

16 Q. Would it include SFFA vs. University of Texas?

17 A. It's not on here.

18 Q. Well, this is too early in time.

19 A. Oh, I see. I think I would have to be advised  
20 by counsel.

21 Q. Okay. This Exhibit 25 did include as "Our  
22 Cases" the SFFA case against Harvard --

23 A. Yes.

24 Q. -- and the SFFA case against UMC.

25 A. Yes.

Edward Blum  
January 10, 2018

159

1 Q. And this was so even though POFR was not a  
2 party to those lawsuits; am I correct?

3 A. Correct.

4 Q. And this exhibit also includes Fisher against  
5 University of Texas as one of "Our Cases"; does it not?

6 A. It does.

7 Q. And that's the case even though POFR was not a  
8 party to that lawsuit.

9 A. Was not a party to that lawsuit, correct.

10 Q. Would you look with me at Exhibit 26.

11 (Exhibit No. 26 marked for identification.)

12 And I first want to tell you where I obtained this  
13 because this is one that does not have Bates numbers on  
14 it.

15 A. Okay.

16 Q. This was obtained by clicking on the POFR  
17 website in the "Our Cases" section, the listing  
18 corresponding to the Fisher lawsuit. Do you follow me?

19 A. Yes.

20 Q. Do you recognize Exhibit 26?

21 A. Yes.

22 Q. Do you know who wrote Exhibit 26?

23 A. I wrote -- I wrote this.

24 Q. On the second page the Consovoy McCarthy Law  
25 Firm is identified as attorneys for Ms. Fisher, correct?

Edward Blum  
January 10, 2018

164

1 education. It is not necessary as an -- as a membership  
2 advocacy organization for each member to have applied to  
3 a university and been rejected any more than it's  
4 necessary for any other advocacy organization to have  
5 suffered from a million different circumstances.

6 Q. (BY MR. MCKETTA) In fact, you believe that  
7 many, many of SFFA's members never were rejected for  
8 admission by a college or university?

9 A. I'd hate to speculate, Counsel.

10 Q. You know that many were not?

11 A. I -- I have no understanding of that.

12 Q. On your board of the five board members, you  
13 think that probably four have not had that experience?

14 MR. STRAWBRIDGE: Object to the form of the  
15 question.

16 A. I -- I am unaware of it.

17 Q. (BY MR. MCKETTA) Yeah.

18 A. Yeah.

19 Q. Okay.

20 A. I know Mr. Fisher never considered going to any  
21 other school other than the University of Texas.

22 Q. Right. And you can't imagine Edward Chen  
23 having being turned down by anybody, can you?

24 MR. STRAWBRIDGE: Object to the form of the  
25 question.

Edward Blum  
January 10, 2018

179

1 discuss off the record, and I can determine whether or  
2 not he can answer the question consistent with my  
3 instruction.

4 MR. MCKETTA: We'll do that in just a  
5 minute.

6 MR. STRAWBRIDGE: Okay.

7 Q. (BY MR. MCKETTA) I want to now go back to the  
8 Fisher lawsuit. In the Fisher lawsuit you were not a  
9 party, were you?

10 A. I was not.

11 Q. You were not a lawyer, were you?

12 A. I was not.

13 Q. Did you have discussions with the trial lawyers  
14 and appellate lawyers in the Fisher lawsuit at the  
15 district court stage?

16 A. Yes.

17 Q. At the court of appeals stage?

18 A. Yes.

19 Q. At the Supreme Court stage?

20 A. Yes.

21 Q. I'm going to ask you about the discussions you  
22 had with Ms. Fisher's lawyers concerning their  
23 projections of the outcome of the district court level.  
24 What did they will you?

25 MR. STRAWBRIDGE: Okay. I'm going to



Edward Blum  
January 10, 2018

180

1 object -- the witness -- and instruct -- instruct him  
2 not to answer.

3 MR. MCKETTA: And I'm waiting to hear the  
4 privilege.

5 MR. STRAWBRIDGE: On grounds of attorney  
6 client and work product privilege.

7 Q. (BY MR. MCKETTA) Were you the client?

8 A. No.

9 MR. STRAWBRIDGE: Well --

10 MR. MCKETTA: Do you have a different view  
11 now?

12 MR. STRAWBRIDGE: No, no. I --

13 MR. MCKETTA: Are you claiming he was a  
14 client?

15 MR. STRAWBRIDGE: I don't think he's been  
16 asked whether he -- whether -- whether he or  
17 (indiscernible) -- were clients of Wiley Rein at the  
18 time. You can ask him if he was the -- if he was a  
19 client for purposes of that lawsuit, but those are two  
20 different questions.

21 Anyway, I'm asserting the privilege covers  
22 discussions that were had with Mr. Blum during the  
23 pendency of that lawsuit before product and attorney  
24 client. Just as I would note it frequently does with  
25 respect to any third party pay or in litigation.

Edward Blum  
January 10, 2018

182

1 while acting in the scope of employment for Ms. Fisher?

2 A. When you reach the -- the word "employment," I  
3 got a little -- I got a little hazy, but I think the  
4 answer is, yes.

5 Q. You think that you were employed for  
6 Ms. Fisher?

7 MR. STRAWBRIDGE: Object to the form of the  
8 question.

9 A. Well, the -- the word "employ" seems a little  
10 -- if you had used the word "designated" by Ms. Fisher  
11 to act as her representative in making and helping with  
12 decisions and communicating with counsel, then the  
13 answer to that would be, yes.

14 Q. (BY MR. MCKETTA) Your belief is that in the  
15 Fisher litigation from 2008 through 2016 you were a  
16 person designated by Ms. Fisher to assist and facilitate  
17 her communications with lawyers and her receiving and  
18 acting on advice from lawyers.

19 MR. STRAWBRIDGE: Object to the --

20 Q. (BY MR. MCKETTA) Is that what you're telling  
21 me?

22 MR. STRAWBRIDGE: Object to the form of the  
23 question. I'll just note that the witness has  
24 repeatedly stated --

25 MR. MCKETTA: No, you won't -- you won't

Edward Blum  
January 10, 2018

183

1 talk beyond that.

2 MR. STRAWBRIDGE: -- he is not a lawyer.

3 MR. MCKETTA: If you want to comply with  
4 Texas rules, you limit yourself to the words you're --  
5 you know of. So --

6 A. Okay. Mr. McKetta, could you -- would you  
7 state it again, yeah.

8 Q. (BY MR. MCKETTA) I sure will. Are you  
9 claiming that you believed that you from 2008 to 2016  
10 were designated by Ms. Fisher to serve as her  
11 representative for purpose of facilitating and receiving  
12 legal communications for her benefit?

13 MR. STRAWBRIDGE: Object to the form of the  
14 question.

15 A. Yes.

16 MR. MCKETTA: Let's go off the record.  
17 There was one topic you wanted to discuss to see if he  
18 could answer concerning --

19 MR. STRAWBRIDGE: I think he had some  
20 confusion about his ability to answer.

21 MR. MCKETTA: We're off the record.

22 THE VIDEOGRAPHER: All right. We're off  
23 the record at 2:30.

24 (Off the record from 2:30 p.m. to 2:37 p.m.)

25 THE VIDEOGRAPHER: Back on the record at

Edward Blum  
January 10, 2018

190

1 other role has POFR played in the cases on this list?

2 A. Some of the cases on this list POFR has not  
3 played any role at all. In other cases on this list  
4 POFR has provided funding for -- for the litigation.

5 Q. Okay. And I believe you testified earlier  
6 today that POFR did provide some funding to SFFA in its  
7 initial year of operation?

8 A. Yes.

9 Q. Okay. And your testimony is that POFR has not  
10 done so with respect to -- since the initial year of its  
11 operation?

12 A. Yes.

13 Q. Okay.

14 MR. STRAWBRIDGE: Just give me one second,  
15 Mr. McKetta.

16 Q. (BY MR. STRAWBRIDGE) You were asked a number  
17 of questions with respect to -- by Mr. McKetta about  
18 communications that you had with the attorneys  
19 representing Ms. Fisher in the federal litigation of  
20 this case; is that correct?

21 A. Yes.

22 Q. At the time that you had those communications,  
23 was it your understanding and expectation that the  
24 communications were privileged?

25 A. Yes.

Edward Blum  
January 10, 2018

198

1 CAUSE NO. D-1-GN-17-002930  
2 STUDENTS FOR FAIR ) IN THE DISTRICT COURT OF  
3 ADMISSIONS INC. )  
4 )  
5 Plaintiff )  
6 )  
7 VS. )  
8 )  
9 UNIVERSITY OF TEXAS AT )  
10 AUSTIN; WILLIAM MCRAVEN, )  
11 in his official capacity )  
12 as Chancellor of the )  
13 University of Texas )  
14 System; GREGORY L. FENVES, ) TRAVIS COUNTY, TEXAS  
15 in his official capacity )  
16 as the President o the )  
17 University of Texas at )  
18 Austin; and ERNEST )  
19 ALISEDA, DAVID J. BECK, )  
20 KEVIN P. ELTIFE, PAU L. )  
21 FOSTER, R. STEVEN HICKS )  
22 JEFFREY D. HILDEBRAND, )  
23 JANIECE LONGORIA, SARA )  
24 MARTINEZ TUCKER, and JAMES )  
25 CONRAD WEVER, in their )  
official capacities as )  
Members o the Board of )  
Regents of the University )  
of Texas Systems,, ) 53RD JUDICIAL DISTRICT  
)  
Defendants

REPORTER'S CERTIFICATION  
ORAL/VIDEOTAPED DEPOSITION OF  
EDWARD BLUM  
JANUARY 10, 2018

I, Michelle Rodriguez, Certified Shorthand  
Reporter in and for the State of Texas, hereby certify  
to the following:

That the witness, EDWARD BLUM, was duly sworn  
by the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

Edward Blum  
January 10, 2018

199

1 That the deposition transcript was submitted on  
2 \_\_\_\_\_, 2017, to the witness, or to the  
3 attorney for the witness, for examination, signature,  
4 and return to US Legal Support, by \_\_\_\_\_, 2017;

5 That the amount of time used by each party at the  
6 deposition is as follows:

7 Mr. Strawbridge - 00HRS:07 MIN  
8 Mr. McKetta - 05HRS:05 MIN

9  
10 That pursuant to information given to the  
11 deposition officer at the time said testimony was taken,  
12 the following includes counsel for all parties of  
13 record:

14 Mr. Strawbridge,  
15 ATTORNEY FOR PLAINTIFF  
16 Mr. McKetta,  
17 ATTORNEY FOR DEFENDANTS.

18 I further certify that I am neither counsel for,  
19 related to, nor employed by any of the parties or  
20 attorneys in the action in which this proceeding was  
21 taken, and further that I am not financially or  
22 otherwise interested in the outcome of the action.

23 Further certification requirements pursuant to Rule  
24 203 of TRCP will be certified to after they have  
25 occurred.

26 Certified to by me this the 30th day of January  
27 2018;



28 MICHELLE RODRIGUEZ, CSR No. 9244  
29 Expiration Date: 12-31-19

30 US Legal Support  
31 Firm Registration No. 122  
32 363 N. Sam Houston Pkwy E, Suite 1200  
33 Houston, Texas 77060

Edward Blum  
January 10, 2018

200

## FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was \_\_\_\_\_ was not \_\_\_\_\_  
returned to US Legal Support, on \_\_\_\_\_, 20\_\_\_\_.

If returned, the attached Corrections and Signature  
page contains any changes and the reasons therefor;

If returned, the original deposition was delivered  
to Mr. McKetta, Custodial Attorney;

That \$\_\_\_\_\_ is the deposition officer's charges  
to the Attorney for the Defendants, Mr. McKetta, for  
preparing the original deposition transcript and any  
copies of exhibits;

That the deposition was delivered in accordance  
with Rule 203.3, and that a copy of this certificate was  
served on all parties shown herein on \_\_\_\_\_  
and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_.



MICHELLE RODRIGUEZ, CSR No. 9244  
Expiration Date: 12-31-19

US Legal Support  
Firm Registration No. 122  
363 N. Sam Houston Pkwy E, Suite 1200  
Houston, Texas 77060

JOB NO. 1-HOU-258482